

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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MAY 22 2001

In the Matter of )  
 )  
Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations. )  
(Parker, Arizona) )

MM Docket No. 01-69  
RM-10081

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TO: John A. Karousos, Chief  
Allocations Branch, Policy and Rules Division

**REPLY COMMENTS**

Baker Broadcasting, L.L.C. ("Baker"), permittee of Station KKBK(FM), Baker, California, by its attorneys, hereby submits its reply comments in response to the Comments and Counterproposal filed by Farmworker Educational Radio Network, Inc. ("FERN") in the above-referenced proceeding. In its Comments and Counterproposal, FERN proposes that KKBK(FM)'s channel be changed from 235B1 to Channel 276B1. Based on the fact that FERN's counterproposal is highly complicated, involving seven different communities and proposing very tight channel spacing, Baker was unable to complete its engineering studies of the proposal. Consequently, Baker reserves the right to file late-filed comments or provide a more detailed response to FERN's counterproposal when, pursuant to standard Commission procedure, the Commission releases its Public Notice regarding the counterproposal.<sup>1</sup>

<sup>1</sup> Because of the uncertainty caused by the instant proceeding and FERN's counterproposal, Baker considers this a "tolling event," which will toll Station KKBK(FM)'s authorized construction period. See *Report and Order in the Matter of 1998 Biennial Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes*, 13 FCC Rcd

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In the interim, Baker would like to voice its concern about the potential short-spacing problem between KKBK(FM) and KSTJ(FM) and the possibility that this proposal will prevent Baker from providing service on KKBK(FM) as quickly as possible. Baker is justifiably concerned with the fact that moving to Channel 276B1, as FERN proposes, would cause KKBK(FM) to be short-spaced with Station KSTJ(FM), Boulder City, Nevada. Although FERN claims that Centennial Broadcasting License, L.L.C. ("Centennial"), the licensee of KSTJ(FM), has agreed to change sites if this counterproposal is granted, FERN did not include a signed letter or agreement from Centennial to that effect, and Baker has no assurance that this will actually occur. In addition, grant of this proposal for a channel change may prolong the commencement of service on KKBK(FM) to the community of Baker, California. Baker is currently in the process of analyzing its construction options for KKBK(FM) on Channel 235B1 and would have to start this construction process all over again in order to construct the station on a different channel.

Finally, Commission policy requires reimbursement to affected stations for reasonable costs associated with changing frequencies. *See Circleville, OH*, 8 FCC 2d 159 (1976) ("*Circleville*"). FERN statement about its willingness to reimburse the parties to this proposal for any incurred expenses is unclear with respect to Baker. Although, at this time, Baker is not in a position to support FERN's counterproposal, Baker requests that FERN make an affirmative binding representation to the Commission that it will comply with the requirements of *Circleville*

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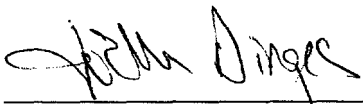
23,056 (1998); *recon. granted in part, Memorandum Opinion and Order*, 14 FCC Rcd 17,525 (1999).

and reimburse Baker for the costs associated with such a channel change in the event that the Commission grants FERN's counterproposal.

As stated above, Baker intends to submit further comment on the FERN counterproposal to allot Channel 276B1 to Baker in lieu of Channel 235B1 and change KKBK(FM)'s channel in late-filed comments or in response to the anticipated Public Notice regarding FERN's counterproposal.

Respectfully submitted,

**BAKER BROADCASTING, LLC**

By:   
Clifford M. Harrington  
JoEllen Dinges

Its Attorneys

SHAW PITTMAN  
2300 N Street, N.W.  
Washington, D.C. 20037  
(202) 663-8000

May 22, 2001

### CERTIFICATE OF SERVICE

I, Joanne Lee, a secretary with the law firm of Shaw Pittman, do hereby certify that I have, on this 22nd day of May, 2001, mailed by first-class United States mail, postage prepaid, copies of the foregoing "**Reply Comments**" to the following:

\*R. Barthen Gorman, Esquire  
Allocations Branch, Policy and Rules Division  
Federal Communications Commission  
445 12th Street, S.W., Room 3-A224  
Washington, DC 20554

Mark N. Lipp, Esq.  
James E. Morgan, Esq.  
Shook, Hardy & Bacon, L.L.P.  
600 14th Street, N.W., Suite 800  
Washington, DC 20005

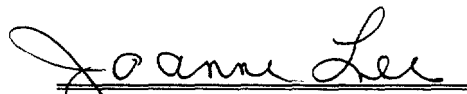
Anne Thomas Paxson, Esq.  
Bosari & Paxson  
2021 L Street, N.W., Suite 402  
Washington, DC 20036

Nancy L. Wolf, Esq.  
Leventhal, Senter & Lerman, P.L.L.C.  
2000 K Street, N.W., Suite 600  
Washington, DC 20006-1809

Kimberly L. Cook, Esq.  
Dow, Lohnes & Albertson  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, DC 20036-6802

John M. Burgett, Esq.  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, DC 20006

\*Hand Delivery

  
Joanne Lee